



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

ORTHOTEXAS PHYSICIANS AND SURGEONS
4780 N JOSEY LANE
CARROLLTON, TX 75010

Respondent Name

LIBERTY MUTUAL INSURANCE CO

Carrier's Austin Representative Box

Box Number 01

MFDR Tracking Number

M4-12-1733-01

MFDR Date Received

JANUARY 23, 2012

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "ins keeps denying stating provider not certified but Dr. Neagle can assess impairment ratings as long as they are 0%"

Amount in Dispute: \$650.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Doctor must be certified to assign impairment rating Dr. does not need to be certified to determine that there is no impairment but that is not the same as assigning a rating of 0%. See attachments."

Response Submitted by: Liberty Mutual Insurance, P.O. Box 3423, Gainesville, GA 30503

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 12, 2011	99455-WP-V3	\$650.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §130.1 sets out the guidelines for Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment.
3. 28 Texas Administrative Code §134.204 sets out the guidelines for health care providers to bill for workers' compensation specific services.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated September 23, 2011 and November 18, 2011

- F610 – Provider not certified to establish impairment ratings.

- X598 – Claim has been re-evaluated based on additional documentation submitted; no additional payment due.
- Z348 – Section 413.042 of the Texas Labor Code prohibits a provider from balance billing an injured worker for Workers' Compensation compensable services except care described under Section 1305.006 of the Insurance

Issues

1. What are the guidelines for a health care provider to certify Maximum Medical Improvement and Evaluation of Permanent Impairment?
2. Does the requestor's documentation support disputed service as billed?
3. Is the requestor entitled to reimbursement?

Findings

1. 28 Texas Administrative Code §130.1 states in pertinent parts, "(a) Authorized Doctor. (1) Only an authorized doctor may certify maximum medical improvement (MMI), determine whether there is permanent impairment, and assign an impairment rating if there is permanent impairment. (A) Doctors serving in the following roles may be authorized as provided in subsection (a)(1)(B) of this section. (i) the treating doctor (or a doctor to whom the treating doctor has referred the injured employee for evaluation of MMI and/or permanent whole body impairment in the place of the treating doctor, in which case the treating doctor is not authorized); ... (B) Prior to September 1, 2003 a doctor serving in one of the roles described in subsection (a)(1)(A) of this subsection is authorized to determine whether an injured employee has permanent impairment, assign an impairment rating, and certify MMI. On or after September 1, 2003, a doctor serving in one of the roles described in subsection (a)(1)(A) of this section is authorized as follows: (i) a doctor whom the commission has certified to assign impairment ratings or otherwise given specific permission by exception to, is authorized to determine whether an injured employee has permanent impairment, assign an impairment rating, and certify MMI; and (ii) a doctor whom the commission has not certified to assign impairment ratings or otherwise given specific permission by exception to is only authorized to determine whether an injured employee has permanent impairment and, in the event that the injured employee has no impairment, certify MMI. (2) Doctors who are not authorized shall not make findings of permanent impairment, certify MMI, or assign impairment ratings and shall not be reimbursed for the examination, certification, or report if one does so. A certification of MMI, finding of permanent impairment, and/or impairment rating assigned by an unauthorized doctor are invalid. If a treating doctor finds that the injured employee has permanent impairment but is not authorized to assign an impairment rating, the doctor is also not authorized to certify MMI and shall refer the injured employee to a doctor who is so authorized.
2. Review of the requestor's documentation finds a copy of the requestor's Report of Medical Evaluation form (DWC 69). Form DWC 69 indicates in Section II (Doctor's Role) box 13 that the doctor performing the exam is the treating doctor. The requestor also checked letter b in Section IV box 17 (Permanent Impairment) certifying that the employee has a permanent impairment as a result of the compensable injury. The amount of permanent impairment is 0%. A note in Box 17 states, "A finding of no impairment is not equivalent to a 0% impairment rating. A doctor can only assign an impairment rating, including a 0% rating, if the doctor performed the examination and testing required by the AMA Guides."
3. A review of the Division's records finds that the health care provider is not authorized by the Division to assign impairment ratings/MMI. Therefore, in accordance with 130.1(a) (2) reimbursement is not recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

02/01/2013

Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.